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■ BEYOND WESTMORELAND

The Right's Attack
On the Press

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The outcome of the Westmoreland trial is a gain for America—the America of the Constitution and the Bill of Rights. But for the political movement that funded and supported it, the case is merely a lost battle. The New Right's war against the mass media continues unabated and that outcome is still in doubt.

In their quest for political power, the energetic and ambitious leaders of the New Right (many of whom now call themselves "conservative populists") regard the media as a formidable barrier. The problem, as they see it, is that the media is controlled by liberals, who are their natural enemies. The leaders' animus toward the media appears to be shared by their foot soldiers, the millions of "social conservatives" concentrated in the Sun Belt and the Midwest, who support a "pro-family" agenda and respond favorably to appeals for patriotism and a strong national defense.

Central to the thinking of the movement is the idea that the media is now the dominant force in America. Patrick Buchanan, the President's recently appointed Director of Communications, argued in 1977 that the main obstacle to the victory of conservative forces in this country was not the Democratic Party but the liberal media. Kevin Phillips, one of the right's most admired theorists, maintains that the old political parties have "lost their logic." He says, "Effective communications are replacing party organizations as the key to political success." It follows then that to take power—as opposed to winning an election—the right must capture the liberal media, lock, stock and barrel.

Phillips and other New Right social critics lean heavily on the theory of elites propounded by the early twentieth-century sociologists Vilfredo Pareto and Gaetano Mosca, who, not coincidentally—since elite theory counters the concept of class conflict—strongly influenced the young Mussolini and early Italian Fascism. New Right analysis, following another line trod by Italian Fascism, claims a unity of interest among "producers": business, labor and agriculture. "The basic economic and political split in America today," according to William A. Rusher, publisher of *National Review*, "is no longer between 'business and labor' but between 'producers and non-producers.'"

Among the nonproducers are the print and electronic media, part of a "verbalist" elite that battens on the hide of the hard-working producers. Rusher believes this unjust situation should not be permitted. So does Samuel T. Fran-

cis, a former policy analyst for the Heritage Foundation and now a legislative assistant to North Carolina Senator John East. He cites the media as one of those "power preserves of the entrenched elite whose values and interests are hostile to the traditional American ethos and which is a parasitical tumor on the body of Middle America. These structures should be leveled."

Although the New Right believes that the Presidency will continue to be held by conservatives, they see liberals clinging to control of the all-powerful media. In this situation, they sometimes regard the First Amendment as a weapon used by their enemies. How to convince people that the First Amendment is not sacrosanct? The New Right has already broached that touchy subject.

An article by Kevin Phillips in *Human Events* on January 13, 1973, was titled "Is the First Amendment Obsolete?" To which Phillips answered "Yes," noting, "The Public's right to know" is a code for the Manhattan Adversary Culture's desire to wrap the 1st Amendment around its attack on the politicians, government and institutions of Middle America."

Two years later in a book titled *Mediocracy*, Phillips pursued the argument:

The Bill of Rights is hardly a static legal concept. . . . perhaps the First Amendment may undergo a shifting interpretation . . . to reflect the new status of the communications industry. The media may be forced into the status of utilities regulated to provide access.

Phillips gave no specific details as to how the media was to be "regulated." But in 1981 some extraordinary suggestions were offered by James L. Tyson in *Target America: The Influence of Communist Propaganda on U.S. Media*. Tyson, who lists as his past affiliations the Office of Strategic Services (precursor to the Central Intelligence Agency), Time-Life International and I.B.M. World Trade Corporation, proposes that a government official be stationed at each of the three major television networks to check news stories for fairness and accuracy. The networks have "become so powerful in opinion formation that national survival demands some assurance that they will not be free to disseminate the misinformation and distortions that have occurred in recent years," he writes. "In a word, TV news has become much too important a matter to be left to TV newsmen."

As a "solution to this problem," Tyson offers what he terms a preliminary recommendation. He would "require an ombudsman for each major network . . . appointed by an independent outside body such as the FCC." This individual would see that the Fairness Doctrine is adhered to and would insure that the networks follow "expert advice" on issues like "the neutron bomb, nuclear power, or our policy in Indo-China."

Several New Right groups, including the American Security Council and the National Strategy Information Center, assisted Tyson with his research. But what gives his book the imprimatur of the New Right is the endorsement of Reed Irvine, the movement's pre-eminent media maven. When

Walter Schneir and Miriam Schneir are working on a book about the New Right and the media.

we called to request material on media bias from a number of well-known New Right organizations—among them, the Heritage Foundation, the National Journalism Center and the Conservative Caucus—we were informed in each instance that the person to see was Reed Irvine.

Irvine is chair of Accuracy in Media (AIM), a self-described media watchdog, and editor of the semimonthly newsletter "AIM Report." AIM's national advisory board includes Clare-Boothe Luce, Eugene Lyons, Prof. Frank N. Trager, former Treasury Secretary William E. Simon, industrialist and Heritage trustee Robert H. Kriebel and Midge Decter, also a Heritage trustee and executive director of the Committee for the Free World. Funding comes from a core group of right-wing foundations (such as Scaife and Coors) and also from many large corporations, including Mobil Oil.

Although to the best of our knowledge, Irvine has never discussed *Target America* during his appearances on national television (now made with increasing frequency), it is fair to say that he endorses the ideas in the book. He assisted Tyson with the research, wrote the preface, hired Tyson for the "AIM Report" staff, reprinted a paperback edition of the work, offers the book free to subscribers of the newsletter, and at a CBS annual stockholders meeting proposed that the corporation drop Walter Cronkite from its board of directors and replace him with James Tyson.

Tyson's thesis is that the Russians are pursuing "a massive secret propaganda campaign" carried out by at least 4,000 journalist-agents stationed in the United States. To identify those operatives and their assistants he urges investigations of "Communist propaganda activities in the United States" by the Federal Bureau of Investigation and House and Senate internal security committees. Meanwhile, he has devised a clever "balance sheet" method for smoking out "Communist agents in the media." Passing Tyson's loyalty test is no simple matter; telling the truth will not do the trick. An investigative reporter whose work is accurate but does not include what Tyson judges to be "anti-Communist truths" is, he declares, "as suspect as those whose

output consists totally of falsehoods." In the preface to *Target America*, Irvine asserts:

Tyson documents what so many have only surmised. This country is the target of a massive and frighteningly successful war of words inspired by governments that despise and fear freedom and aided by a host of witting and unwitting helpers.

How much support is there in the New Right for a return to the investigative techniques of the McCarthyite 1950s? Tyson merely echoes the 1981 Heritage Foundation report to President Reagan, *Mandate for Leadership*, which urged the reactivation of internal security probes by the F.B.I. and Congress, and noted, "Individual liberties are secondary to the requirement of national security and internal civil order." Moral compunctions will not inhibit a new McCarthyism. Richard Viguerie, the genius of New Right direct-mail politics and the publisher of *Conservative Digest*, recalls that during his student days his heroes were "the two Macs"—Gen. Douglas MacArthur and Senator Joseph McCarthy. And Kevin Phillips, in his 1982 book *Post-Conservative America*, blandly projects an America in which "increased surveillance would crack down on . . . extreme political dissidents."

Another current plan that would stifle debate on public issues should be mentioned. The Reagan Administration is attempting to stretch the draconian Espionage Act to cover leaks to the media by government employees. When a Navy Department employee sent photographs of a Soviet ship to a British publication, the Justice Department obtained an indictment for espionage against him, and this month that indictment was upheld by a Federal District Court judge in Baltimore. As if in tandem, a former high-level C.I.A. official, George Carver, has been calling publicly for legislation to permit the Espionage Act's use against Federal employees who disclose classified information to journalists. Carver, now with Georgetown University's right-wing Center for Strategic and International Studies, characterizes this suggested change as "fine tuning."

These far-reaching proposals for an end run around the

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First Amendment by some "regulatory" mechanism, for McCarthyite probes of newspeople and for expanded use of the Espionage Act are still unrealized, so the New Right's antimedia shock troops have had to rely on a variety of lesser weapons and hope those will have a cumulative effect.

Reed Irvine, for example, harasses the networks by enlisting his supporters in letter-writing campaigns to media corporate executives and advertisers. "AIM Report" has a circulation of about 30,000, and Irvine reaches thousands of others through his syndicated newspaper column and his five-day-a-week radio commentary, *Media Monitor*. He also buys shares in media corporations so he can attend stockholders meetings and introduce resolutions. In addition, AIM maintains an active speakers bureau and sponsors conferences.

In the past few years AIM has campaigned against television programs critical of Agent Orange, Nestle's infant formula, nuclear power, J. Edgar Hoover, Senator McCarthy, Anastasio Somoza and the present Guatemalan government. Other objects of its ire have included stories considered favorable to the Nicaraguan revolution, the nuclear freeze and Jane Fonda and her film *The China Syndrome* ("an anti-free enterprise movie"). CBS and its correspondents Mike Wallace, Dan Rather and Bill Moyers are frequent targets of Irvine's invective. In 1975 he wrote:

At least some of the blood shed by South Vietnamese when Saigon fell to Communist aggressors last April belongs on the hands of the Columbia Broadcast Corporation. CBS' biased news . . . proved influential in turning public sentiment against the war effort.

When that article was reprinted in Viguerie's *Conservative Digest*, it was accompanied by a photograph of Walter Cronkite, with the caption: "Walter Cronkite and his fellow CBS newsmen deserve at least some of the blame for the fall of South Vietnam."

About a decade ago AIM and the American Security Council each began filing complaints against the networks with the Federal Communications Commission under the Fairness Doctrine, seeking license revocation or other sanc-

tions. They met with no success. The advent of the Reagan Administration and the appointment of conservatives to the F.C.C. raised their hopes. What followed, however, was a split between conservatives who genuinely wanted less government regulation, and so favored abolition of the Fairness Doctrine, and those, like Irvine, who tend to think in hard-boiled *Realpolitik* terms. After F.C.C. chair Mark Fowler rejected one of Irvine's petitions, Irvine wrote with obvious contempt that the conservatives on the F.C.C. were giving "the liberals who dominate the big electronic media just what they want. They seem to be doing this because they are ideological purists."

Another New Right organization, the American Legal Foundation (A.L.F.), established in 1980, has also been assiduously filing Fairness Doctrine complaints—including one against CBS for the documentary on Gen. William Westmoreland. Recently, when the C.I.A. filed its precedent-setting F.C.C. complaint against ABC *World News Tonight*, the A.L.F. offered a supporting petition. The A.L.F. describes itself as "the only pro-free enterprise, public interest law center in the nation that devotes all of its activities and resources solely toward fighting media bias."

Aside from posing threats to the licenses of the broadcasters, the F.C.C. complaints serve as a focus for anti-media publicity campaigns that may have an even more intimidating effect. The A.L.F. was part of such a campaign prior to the screening of ABC's film about nuclear war, *The Day After*. Later the A.L.F.'s general counsel, Michael P. McDonald, claimed, "If A.L.F. and other conservative organizations hadn't been involved in the whole *Day After* brouhaha, I don't think we would have seen the viewpoint segment that aired afterwards, which was a fairly conservative panel."

While continuing to file F.C.C. complaints, the foundation is also investing heavily in libel suits, and it has organized a Libel Prosecution Resource Center to aid "media victims." In a recent interview, McDonald said that he was disappointed about the outcome of the Westmoreland case but that his organization would continue to support libel prose-

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cution against the media. "I think we'll be seeing some additional big cases," he said. "There are some pending right now." He mentioned Senator Paul Laxalt's libel suit against a California newspaper group.

Many in the New Right would like to see more suits by public officials against the media and regard the Supreme Court's 1964 decision in *New York Times v. Sullivan* as the principal impediment to that goal. In that decision the Court—to encourage vigorous debate on public issues—made it difficult for officials to win libel actions. In the past year the New Right has been sharpening its knives for *Sullivan*. McDonald has said: "We believe *New York Times v. Sullivan* destroyed 180 years of libel law. . . . The media is being afforded too much protection." Another opponent of *Sullivan* is Leslie Lenkowsky, who was staff director of the Smith Richardson Foundation when it helped fund the Westmoreland case. Interviewed before the trial began by Connie Bruck for *The American Lawyer*, Lenkowsky said he hoped the case would have two long-range effects: a change in the malice standard of *Sullivan* and the demise of CBS Reports, the division of CBS News responsible for the Westmoreland documentary.

The strongest attack on *Sullivan* came in three advertisements placed by Mobil in *The New York Times*, *The Washington Post* and many other leading dailies. The ad that appeared on October 18, 1984, suggested that if the Supreme Court did not "redefine" the libel standard applied to public officials, such officials should be provided "government-financed" libel insurance that would pay for suits against critics. It also solicited contributions to assist the Westmoreland defense. Recently a number of those opposed to *Sullivan* joined forces to produce a monograph titled "*New York Times v. Sullivan*: An Obstacle to Enlightened Public Discourse and Government Responsiveness to the People." Written by Bruce E. Fein, a lawyer with the conservative American Enterprise Institute, it was published by the American Legal Foundation and has a preface by McDonald and an introduction by Herbert Schmeitz, vice president for public affairs of Mobil.

The New Right's latest project against the media is the ploy of Senator Jesse Helms to gain control of CBS through stock purchases. In January a new organization called Fairness in Media, based in Raleigh, North Carolina, mailed nearly a million letters to conservatives throughout the country. The letter, which is signed by Helms, begins: "For years good Americans like you have asked President Reagan and me what can be done to combat the flagrant bias in the liberal news media. At last there's an answer to that question." The answer: recipients should vote the CBS stock they purchase or already own "to take control of that network . . . to elect a new Board of Directors . . . committed to ending liberal media bias." As evidence of CBS's offending policies, the letter cites a *TV Guide* study that found CBS "the most anti-Reagan network," a Bill Moyers program "that made it appear that President Reagan's policies were hurting the poor" and CBS News's misleading coverage of the Tet offensive. The letter implies that during the Vietnam War the media was Gen. Vo Nguyen

Giap's "greatest weapon in defeating America."

Although Helms is unlikely to gain control of CBS, he cannot be dismissed lightly. He has a huge following among the New Right rank and file and is said to have Presidential ambitions. During his twelve years in the Senate he has built a personal political empire, which includes six nonprofit educational foundations and a political action committee, the National Congressional Club, which is the largest in the country. When we called Fairness in Media headquarters, a spokesman told us the response to the mailing has been "tremendous." CBS lawyers have counterattacked with a lawsuit charging improper political activities by tax-exempt organizations. Meanwhile, since Helms's original announcement, the price of CBS stock has risen sharply.

Recently Ted Turner, chair of Cable News Network and Turner Broadcasting Systems, announced that he was seeking to buy CBS. For several years Turner, whose headquarters is in Atlanta, has made no secret of his desire to buy a network, but Wall Street observers do not believe he has sufficient funds, unless he has some big-money backers in the wings. Although a spokesman for Turner denied any connection with the Helms action, *The New York Times* reported, "Turner has met in recent weeks with representatives of Fairness in Media."

Turner's links with the New Right are not generally known. Last June the National Conservative Foundation, an offshoot of John T. (Terry) Dolan's National Conservative Political Action Committee (NCPAC), sponsored a conference in Washington on The Conservative Movement and the Media. It was a true gathering of the faithful, and speakers included Richard Viguerie, Representative Newt Gingrich, Reed Irvine and Dolan, a founder of the New Right. Dolan pondered the question "Why is the American media pro-Soviet?" and observed that there probably were "active Soviet agents" in American journalism. The keynote speaker in this select company was none other than the man who now seeks to buy CBS, Ted Turner. He told the audience that the networks are "the greatest enemies America ever had" and repeated a charge he had made on previous occasions—that broadcast executives are "guilty of treason."

On January 26, 1982, three days after the CBS documentary "The Uncounted Enemy: A Vietnam Deception" was shown, General Westmoreland appeared at a press conference at the Army-Navy Club near the Pentagon to denounce the network. Flanked by ex-C.I.A. officials, former diplomats and retired military officers, Westmoreland inveighed against the "notorious reporter, Mike Wallace," who had tried to prosecute him in "a star-chamber procedure with distorted, false and specious information, plain lies, derived by sinister deception." The accusations against him, he declared, constituted "a preposterous hoax and will not go unanswered."

Shortly afterward, Irvine, whom Westmoreland had contacted in advance of the broadcast, devoted his newsletter to a strident attack on CBS. Under the headline "CBS Should Fire Mike Wallace," Irvine wrote that the documentary was

a "disgraceful example of the atrocious journalism practiced" by CBS News. He suggested the motive behind it: "CBS is smarting under the charge that they and others in the media helped cause our defeat in Vietnam."

Soon, another stalwart of the right came galloping in hot pursuit of CBS. The May 29, 1982, issue of Walter Annenberg's *TV Guide* ran a highly unusual twelve-page cover story titled "Anatomy of a Smear: How CBS News Broke the Rules and 'Got' General Westmoreland." Using unedited transcripts of interviews that were leaked to *TV Guide* by a CBS Deep Throat, the magazine accused CBS News, producer George Crile and Mike Wallace of numerous serious violations of journalistic standards. The fact that Annenberg is a longtime right-winger and a close friend and supporter of Ronald Reagan made some members of the press skeptical about the magazine's objectivity. *Newsweek* questioned whether *TV Guide* was a suitably "neutral forum" for such an investigation, given Annenberg's conservative background and his declared opposition to "adversary journalism."

But at the time the *TV Guide* article appeared, CBS News had a new president, Van Gordon Sauter. Faced with the exposé, Sauter responded by announcing that he had commissioned an investigation of the documentary by network executive Burton Benjamin. The harshly critical "Benjamin Report" was released in summary form in July 1982 and stated that the makers of the documentary had committed mistakes in procedure and violations of CBS News guidelines—though both Benjamin and Sauter affirmed that they supported "the substance of the broadcast."

It is easy to understand why New Right ideologues would have thought the Westmoreland affair had all the makings of a perfect antimedia project—their most ambitious one to date. Thus some time before the fall of 1982 an individual named Richard Larry approached Washington attorney Dan Burt, president of the Capital Legal Foundation. Larry is a trusted agent of Richard Mellon Scaife, the great-grandson of the founder of the Mellon banking fortune and one of the principal moneybags of the New Right movement. If Burt would fight CBS on behalf of Westmoreland, Larry proposed, Scaife would help pay for the suit. That secret arrangement was not disclosed until after the suit ended. Burt has now revealed that Scaife contributed well over \$2 million to Capital Legal (more than 70 percent of the cost of the litigation), which suggests that the trial might more aptly be titled *Richard Mellon Scaife v. CBS*. (Other major backers were the Smith Richardson and the John M. Olin foundations.)

That little has been written about Scaife is not for lack of journalistic enterprise. He has come into his own only since the early 1970s and goes to great lengths to avoid publicity. The most useful elucidation of his political financing activities is an article in the *Columbia Journalism Review* by Karen Rothmyer, a former *Wall Street Journal* reporter who teaches at the Columbia School of Journalism. Based on public and private financial records, Rothmyer's 1981 story estimated that Scaife's charitable foundations already

had granted \$100 million and were continuing to contribute heavily to a variety of conservative, neoconservative and especially New Right organizations. (Both Accuracy in Media and *The Public Interest*, a magazine run by Irving Kristol and Nathan Glazer, are funded in part by Scaife.) Moreover, Scaife has been particularly influential as a source of seed money for such organizations as the Committee for the Free World, the Institute for Foreign Policy Analysis, the Institute for Contemporary Studies, the Media Institute and the Heritage Foundation. All this bespeaks a good deal of political sophistication.

Rothmyer was never able to discuss her findings with Scaife. Although she repeatedly requested an interview, he repeatedly refused. She finally cornered him at an exclusive club in Boston one evening and shot a question at him: "Mr. Scaife, could you explain why you give so much money to the New Right?" He responded, "You fucking Communist cunt, get out of here."

Scaife is also known to have provided seed money for the National Legal Center for the Public Interest and six affiliates, one of which was the Capital Legal Foundation. Other benefactors of this New Right legal network were the Coors and Fluor families, both closely identified with conservative causes. In 1977, when Capital Legal was incorporated, its board included Leslie Burgess, a vice president of the Fluor Corporation; Peter J. Fluor, president of Texas Crude and a major stockholder of Fluor; and associates of two leading conservative organizations, the American Enterprise Institute and the Media Institute.

In 1980 Dan Burt left a lucrative private law practice (he had an office in Al Khobar, Saudi Arabia, where Fluor Arabian has headquarters) to become president of the Capital Legal Foundation. That same year Scaife commissioned Michael Horowitz to study conservative public interest law firms. Horowitz concluded they were too stereotypically pro-business to capture the sympathy of many Americans. Burt may have followed this advice, or perhaps he had a natural affinity for playing the kind of role recommended by Horowitz. He severed the foundation's ties to the National Legal Center and publicly criticized his erstwhile counterparts. He began to tell interviewers that his firm practiced a new breed of public interest law. It was for the little guy rather than big business and was more libertarian than conservative. Nevertheless, his connections to the right do not appear to have suffered as a result of his apostasy. He developed a working relationship with Senators Paul Laxalt, Orrin Hatch and Edward Zorinsky; he was accorded the honor of a long interview in the John Birch Society's newsletter, "Review of the News"; and his big-business, New Right board of directors was virtually unchanged. Moreover, Capital Legal's budget tripled between 1980 and 1982, with much of the money still coming from Scaife.

In spite of—or perhaps because of—his independent stance, Burt and his foundation were chosen by Scaife to handle the Westmoreland suit. At a press conference attended by Burt on September 13, 1982, the general announced that on that day the Capital Legal Foundation had filed a \$120 million libel suit against CBS on his behalf.

Soon after, Reed Irvine solicited donations for a Westmoreland legal fund (he later said he did this at Burt's request). He also sent out a nationwide mailing of a letter signed by Westmoreland, blasting CBS and appealing for contributions to AIM. In addition, Irvine ran a three-quarter-page advertisement in *The Washington Times* for AIM and the Tyson book, with a photograph of Westmoreland in full military dress, captioned: "General Westmoreland wrote that 'Accuracy in Media did a fantastic job of exposing the dishonest smear job that CBS perpetrated. Everyone should read the AIM Report.'"

In late January 1983, CBS News president Sauter told a meeting of journalists in Philadelphia that the Westmoreland libel suit "has become a rallying point for people who seek to use it as an instrument for damaging the image, spirit and aggressiveness of the news media." Westmoreland, he added, "is merely the point man in their search-and-destroy mission." A CBS spokesman identified AIM and the American Legal Foundation as the "people" Sauter had had in mind.

Burt struck back sharply in the press, insisting that Capital Legal followed no particular political philosophy and that he had tried to distance himself from AIM and the American Legal Foundation. He was quoted as saying, "Sure, there are crazy groups on the right, but what can I do?" Irvine later reported in his newsletter that Burt had refused \$41,000 that AIM had raised for the suit, and commented bitterly: "He apparently decided that the case might in some way be jeopardized if Accuracy in Media was in any way connected with it. He said that he would not want to run the risk of being accused of carrying out an anti-media crusade." That the dispute was tactical, not substantive, however, is suggested by the fact that in May, Irvine could announce to his readers that AIM had received a new contribution of \$100,000 from Richard Mellon Scaife—the *eminence grise* of the Westmoreland case.

After AIM ran the ad with Westmoreland's picture a second time, Capital Legal released a letter the general had written Irvine. The letter disclaimed any animosity toward the press. "The ad, by implication, could give the reader the impression that my fight is with the media," Westmoreland wrote. "It is not! It is with CBS over a specific issue. Your ad adds fuel to the frequent allegations by some that my case is a right-wing effort to 'get' the press."

Forgotten by nearly everyone was that some years earlier the general had not hesitated to associate himself with AIM's criticisms of the media. In 1978 he had been the principal speaker at an AIM conference in Arlington, Virginia, that was also addressed by William Rusher and Patrick Buchanan. In a rambling but combative talk, Westmoreland did not go so far in his condemnation of the press as many in the New Right have, but he charged that journalists in Vietnam were "abusive, arrogant and hypocritical," that Americans had been "masterfully manipulated by Hanoi and Moscow" and that the public's "false perception" that Tet was a victory for the Communists was "directly attributable to inaccurate reporting." He declared, "If the media can create a defeat of our armies on the battlefield, they can

also eventually defeat the viability of our system."

As the trial date neared, Burt—despite one slip when he exclaimed, "We are about to see the dismantling of a major news network"—sounded more and more like a benign professor of journalistic ethics. He managed to focus the press on such matters as media responsibility and the right of an old man to preserve his reputation. Although a few stories made passing reference to Capital Legal's New Right funding, Burt largely succeeded in diverting attention from the motives of those who were paying Westmoreland's legal fees and the political significance of the case. Instead, the media turned on itself in a paroxysm of self-criticism. On the eve of the testimony of the first witness, *Newsweek* bore a picture of Westmoreland on its cover and a story inside with the headline "The Media in the Dock: Scrutiny of the making of a TV documentary highlights shortcomings throughout the news business."

But for Burt the party ended when the trial began.

To win his case, he had to prove that the documentary's statements about the general were false and were made with "malice"—that is, with knowledge they were false or with reckless disregard for the truth. George Crile, the producer of "The Uncounted Enemy," was one witness from whom Burt confidently expected he could extract testimony showing malice, but his examination of Crile was a disaster. Expected by some to become the scapegoat of the entire affair, Crile saved himself by coolly demonstrating that he was extraordinarily knowledgeable about the subject. He came across as a serious, well-informed journalist, who had done impressive research.

Burt's last chance to undermine Crile's testimony and prove malice was Ira Klein, a former CBS employee. Burt had stressed the importance of Klein's testimony to his case in his opening statement to the jury:

Crile fabricated his story with the help of a film editor. . . . [who] complained to Crile time and again about the way he was making the broadcast. . . . That film editor, Ira Klein, the man who physically made the broadcast, you will see testify at this trial as a witness for General Westmoreland. He will describe how Crile created "The Uncounted Enemy: A Vietnam Deception" with reckless disregard for the truth.

CBS attorney David Boies delivered the *coup de grâce* to Westmoreland's case when he cross-examined Klein. This was the man who had been airily giving his "expert" opinions on alleged distortions in the broadcast for the previous three years. First, Boies forced Klein to admit that he had told a reporter that Crile was a "social pervert" and was "devious and slimy" (tape recordings of those conversations were available). Then he proceeded:

Q.: During the preparation of the broadcast, did you attend any of the interviews of people that were being interviewed?

A.: No.

Q.: Were you aware that Mr. Crile and Mr. [Sam] Adams and others associated with the broadcast took notes of interviews that they conducted in preparation for the broadcast, interviews that were not filmed interviews?

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A.: Not that I'm aware of.

Q.: During the preparation of the broadcast, did you ever read any Army or C.I.A. documents?

A.: Not that I can recall.

Q.: Did you ever review any order of battle documents?

A.: No.

Q.: There has been some testimony here about the Pike Committee. Were you aware during the preparation of the broadcast what the Pike Committee was?

A.: No.

By then, reporters in the courtroom were turning to one another incredulously. The questioning went on and on, accompanied by the refrain "No. . . . Not that I can recall," until Ira Klein finally stepped from the witness stand naked as a jaybird.

At that point, even before Boies began what would be a powerful "truth" defense, Burt already had lost. And as witness after witness confirmed the documentary's charges, culminating with the testimony of officers who had served with Westmoreland, the journalistic misdeeds uncovered with so much fanfare paled by comparison. However misguided, they clearly had been committed in the service of entertainment, not to distort the facts. The Westmoreland case revealed itself finally as a striking example of that politics that denies or invents reality.

Let us be charitable and grant that some of those in the New Right have boarded an express train whose destination they do not know. But most of the first-class passengers are cognizant of where they are headed. In his 1982 book, Kevin Phillips discusses fundamental alterations in our government that leave no doubt about the direction of his thinking. Although he calls his model state parliamentary, it in no way resembles a true parliamentary system, which emphasizes party responsibility. Instead, Congress would be reduced to an arm of an imperial Presidency, with Congressional leaders serving in the Cabinet and the two-party system merged into a single-party coalition. Also, the jurisdiction of the Federal courts would be cut back. All this, he assures us, could be accomplished without changing the Constitution. As for the media, presumably he still favors his earlier suggestion that it be regulated by the Federal government.

According to Senator East's legislative assistant Samuel Francis, the "best known characteristic" of the New Right is its rejection of "abstract universalism," with its emphasis on the "brotherhood of man" and "egalitarianism." Replacing these, the New Right will stress "a Domestic Ethic that centers on the family, the neighborhood and local community, the church, and the nation." A primary value will be "the duty of work," which may result in "a more harmonious relationship between employer and worker." His remarks remind one that in 1940, when the French Republic became the collaborationist Vichy dictatorship, its coins changed also, with "liberty, equality, fraternity" replaced by "work, family, country." The New Right

clearly feels far more comfortable with that triptych than with such "abstract universalism" as "a decent respect for the opinions of mankind" or "all men are created equal."

We should by no means regard the New Right movement with any sense of inevitability. Events are moving rapidly. In the next four years the New Right could field its own Presidential candidate—Helms, for example—in the Republican Party, or it could be a powerful third party movement. Or it may overreach itself, peak and decline. William Rusher has admitted, "Any development that revives and inflames the old division between haves and have-nots in the producing segment of the society could quickly disrupt the [New Right] coalition." With a blue-collar and lower-middle-class constituency, the New Right quails before class consciousness and conflict as vampires recoil from sunlight or a crucifix.

Meanwhile, right-wing harassment of the mass media will continue and, although greater journalistic accuracy is a blessing to be desired and strived for, neither accuracy, nor fairness, nor conciliation will end these attacks. Averting our eyes from what is happening will not make it go away. Above all, this is not the time for a failure of nerve. ☐